

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1653 of 2015

IN

Civil Writ Jurisdiction Case No. 1194 of 2014

- =====
1. The Bharat Sanchar Nigam Limited, through the Chief General Manager (Maintenance), Telephone Bhawan, 6th Floor, 34-R.R.D. Bagh, Kolkata - 00001.
 2. The Chief General Manager (Maintenance), Telephone Bhawan, 6th Floor, 34, R.R.D. Bagh, Kolkata - 00001.
 3. The General Manager (Maintenance), E.T.R., Central Telegraph, Office Building, 2nd Floor, Budha Marg, Patna - 800001.

.... Petitioners - Appellants

Versus

1. The Union of India, through the Secretary, Ministry of Labour, Government of India, New Delhi.
2. The Assistant Labour Commissioner (Central), Ministry of Labour, Government of India, 2nd Floor, Block- A, Maurya Lok Complex, Dak Bunglow Road, Patna- 1.
3. Sir Dev Kumar Pandey, son of Shyam Narayan Sharma resident of village - Siparadih, P.O. Dhelwan, P.S. Fulwa Present P.S. Beur, District - Patna.

.... Respondents - Respondents

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Appearance:

For the Appellant/s : Mr. V.M.K. Sinha and
Mr. Debanjan Chowdhary, Advocates.
For the Respondents (UoI): Mrs. Kanak Verma, CGC.
For the Respondent No. 3: Mr. Rajesh Ranjan, Advocate.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 30-08-2017

Heard learned counsel for the Bharat Sanchar Nigam Limited and learned counsel for the workman.

2. Appeal has been preferred by the Bharat Sanchar Nigam Limited against the order dated 16.07.2015 passed by the learned Single Judge dismissing the Writ Application on the ground that despite publication of the award the same was not implemented by the



appellants and when a proceeding was initiated against them for non-compliance of the award, they rushed before the High Court by filing the Writ Application.

3. Though the Writ Application has been dismissed on technicality of delay but to satisfy ourselves even about the merits of the matter, the Court went through the Writ Application, as well as the Award which was duly published in the Gazette and is a part of the Writ Application. A reading of the Award indicates that the management did not put up any resistance by way of material and evidence in their written statement filed before the labour court but the workman managed to establish his hiring, continuance and working with the organization; details of which have been reflected in the reading of the Award.

4. Since the illegal termination of the workman was established, coupled with the evidence of his hiring and engagement, the plea taken before this Court that there is no chit of paper to show that he was ever engaged or hired seems to be of no avail because the hiring, the payments and the continuance have been established by various exhibits which have been dealt with and talked about in the Award itself.

5. The Bharat Sanchar Nigam Limited, which is a Government of India Undertaking, cannot be expected to behave



worst than a private litigant. Their conduct to deny benefits of such kind and exploitation by them of a workman, who has no bargaining position, does not reflect well on the management and the obligation which they have towards their employees. In fact, they should have honoured the Award having failed to make out a case in their favour instead of wasting time, energy and money in litigating on issues, which are no issues, in the eye of law.

6. Even on the merits, the Court is satisfied that the appellants have no case. When the reference was made, no contest was made against the reference and when the matter was taken up on the merits, a sham kind of defence was put up which has been taken care and noted in the Award. In fact, this is a fit case where the Bharat Sanchar Nigam Limited should be awarded costs of Rs. 25,000/- for filing such a frivolous appeal, to be payable to the workman within a period of four weeks along with a direction that they will implement the Award in letters and spirit within the same time frame.

7. The Tribunal has not put any financial burden upon the Bharat Sanchar Nigam Limited by refusing to award back wages but has only ordered reinstatement. Valuable time of the workman has already been lost in the litigation. That is the reason why this Court decided to award cost of Rs. 25,000/- (Twenty five thousand) on the Bharat Sanchar Nigam Limited for unfair labour practice, to be



payable to the workman within a period of four weeks along with a direction that they will implement the Award in letters and spirit within the same time frame.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Dilip, AR

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